

**FILED**

UNITED STATES DISTRICT COURT  
DISTRICT OF SOUTH DAKOTA  
SOUTHERN DIVISION

OCT 25 2010

  
**CLERK**

\*\*\*\*\*  
\* Eddie L. DAVIS, \* CIV. NO. 02-4207  
\* Plaintiff, \*  
\* v. \* ANSWER  
\* JESSICA YORK, \*  
\* Defendant. \*  
\*  
\*\*\*\*\*

Defendant Jessica York for her answer to the Complaint of Plaintiff Eddie L. Davis states and alleges as follows:

**FIRST DEFENSE**

Plaintiff's Complaint and each alleged claim or count in the Complaint fails to state a claim or cause of action against Defendant upon which relief can be granted.

**SECOND DEFENSE**

As an affirmative defense, Defendant alleges that her actions were justifiable and reasonable under the circumstances and Plaintiff's claim is barred by reason of SDCL 22-18-2.

**THIRD DEFENSE**

As an affirmative defense, Defendant alleges that she is protected by the doctrine of qualified immunity, thus barring any claim or recovery by Plaintiff.

**FOURTH DEFENSE**

As an affirmative defense, Defendant alleges that Plaintiff failed to give Defendant

statutory notice as required by SDCL 3-21-2, thus barring any recovery by Plaintiff under his state law claims in this case.

1. Defendant denies each and every matter, thing and allegation contained within Plaintiff's Complaint except those matters hereinafter specifically admitted or admitted with qualification.

2. Defendant admits the allegations of paragraphs 4 and 5 of Plaintiff's Complaint.

3. Answering paragraphs 6-18 of Plaintiff's Complaint, Defendant specifically denies Plaintiff's characterization of the events of September 23, 2001, and remits Plaintiff to strict proof thereof.

4. Answering paragraphs 19-24 of Count I of Plaintiff's Complaint, Defendant specifically denies the allegations contained therein and remits Plaintiff to strict proof thereof.

5. Answering paragraphs 25-28 of Count II of Plaintiff's Complaint, Defendant specifically denies the allegations contained therein and remits Plaintiff to strict proof thereof.

6. Answering paragraphs 32-36 of Plaintiff's Complaint, Defendant specifically denies the allegations contained therein and remits Plaintiff to strict proof thereof.

7. Defendant specifically denies acting in any way willfully and/or maliciously or in any other manner such as to justify punitive damages.

8. Defendant specifically denies the nature and extent of Plaintiff's claimed damages, if any, and remits Claimant to strict proof thereof.

9. Defendant specifically denies that she has violated or otherwise infringed upon any constitutional or statutory right of Plaintiff and remits Plaintiff to strict proof thereof.

WHEREFORE, Defendant prays that Plaintiff's Complaint be dismissed upon the merits and with prejudice, that Defendant recover her costs and attorney's fees, and for any further relief deemed equitable by the Court.

Dated this 24<sup>th</sup> day of October, 2002.



Gary J. Pashby  
Michael S. McKnight  
Boyce, Murphy, McDowell &  
Greenfield, L.L.P.

101 North Phillips Avenue, Suite 600  
P.O. Box 5015  
Sioux Falls, SD 57117-5015  
(605) 336-2424  
Attorneys for Defendant

**DEMAND FOR JURY TRIAL**

Defendant hereby demands trial by jury.

**CERTIFICATE OF SERVICE**

I, Michael S. McKnight, do hereby certify that I am a member of the law firm of BOYCE, MURPHY, McDOWELL & GREENFIELD, L.L.P., attorneys for Defendant, and that on the 24<sup>th</sup> day of October, 2002, I mailed a true and correct copy of the within and foregoing Answer to Timothy J. Wilka, 101 South Main, Suite 402, Sioux Falls, SD 57104, Attorney for Plaintiff, by United States mail, postage prepaid thereon.

  
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Michael S. McKnight